



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/773,528 | 02/02/2001 | Yoshinori Takahashi | 121.1016 | 6279 |

21171 7590 04/29/2005

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER

REAGAN, JAMES A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3621

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,528

Applicant(s)

TAKAHASHI ET AL.

Examiner

James A. Reagan

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

25

DETAILED ACTION

Status of Claims

1. This action is in response to the Request for Continued Examination filed on 25 January 2005.
2. Claims 1-26 have been examined.
3. The rejections of claims 1, 3, 5, 7-10, 12, 14-20, 23, 24, and 26 have been maintained.

RESPONSE TO ARGUMENTS

4. No arguments are presented. This non-final rejection is being submitted after speaking with Randy Beckers on 27 April 2005, having agreed to accept this rejection in order to provide the Applicant with an opportunity to submit amendments and arguments. Applicant is invited to interview with the Examiner upon receipt of the Office action.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 10, 12, 16, 17, 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bereiter, US Patent No. 5,754,763.

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claims 1, 10, 16, and 20:

Bereiter discloses:

- *an [apparatus/medium] for managing software licenses (Abstract; Summary of the Invention) comprising:*
- *[Means/unit] for managing a total number of software licenses owned by an entire organization (Abstract; Summary of the Invention);*

- *for collecting inventory information from each of a plurality of computers within the organization, the inventory information including information regarding software actually installed in each computer (Abstract; Summary of the Invention); and*
- *for calculating a difference between the number of software licenses owned by the entire organization and a number of software licenses actually in use which is calculated on the basis of the collected inventory information (Abstract; Summary of the Invention) and for outputting information representing an excessive or insufficiency in the number of software licenses or information regarding purchase of additional software licenses (C9, L23-36).*

With regard to the limitation of where the inventory information is collected without regard for whether or not the installed software is currently executing, Bereiter, in at least column 1, line 12 to column 2, line 9, discloses the traditional technique of managing license information by maintaining a license server which polices a network for license violations without regard or mention of currently executed programs or applications, also disclosed by the Applicant in the background of the current specification.

Claims 3, 12, and 17:

Bereiter discloses

- *an [apparatus/medium] for managing software licenses (Abstract; Summary of the Invention) comprising:*
- *means for storing a total number of software licenses owned by an entire organization and a total number of software licenses allotted to each section of the organization (Abstract; Summary of the Invention; Fig 1, associated text);*
- *means for collecting inventory information from each of a plurality of computers within the organization (Abstract; Summary of the Invention), the inventory information including information regarding software actually installed in each computer; and*

- *means for calculating a difference between the number of software licenses allotted to each section of the organization and a number of software licenses actually used in the section which is calculated on the basis of the collected inventory information (Abstract; Summary of the Invention) and for outputting warning information in a case that the number of software licenses in actual use is greater than the number of allotted software licenses (Fig 7: "Issue Warning"; associated text; C8, L62 - C9, L7).*

With regard to the limitation of where the inventory information is collected without regard for whether or not the installed software is currently executing, Bereiter, in at least column 1, line 12 to column 2, line 9, discloses the traditional technique of managing license information by maintaining a license server which polices a network for license violations without regard or mention of currently executed programs or applications, also disclosed by the Applicant in the background of the current specification.

Claim 21:

Bereiter discloses all the limitations of claim 20. Bereiter further discloses (see above citations) the calculating unit outputs and information, which is decided according to the calculation.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter.

Claim 22:

Bereiter discloses all the limitations of claim 20. He does not specifically disclose:

- *the calculating unit displays of software licenses, the screen organization displayed in the of usage of software licenses within the hierarchy, and the state of usage of software licenses including the number of software licenses allotted to the selected section and a number of software licenses actually in use at the selected section which is calculated on the basis of the collected inventory information.*
- *a screen of a state of usage including a hierarchy of the form of a tree and the state within each selected section.*

However, Bereiter does disclose a user interface for an administrator of the license management system or management personnel may view the system resources, identified on a screen by "icons" (C6, L42-49), all implemented in "a known manner." The use of such icons, including hierarchical tree structures to illustrate an organization's resource use is well known

in the art, and would have been obvious for one ordinarily skilled in the art to implement, in order to make the results easier to view and to comprehend on a computer display.

9. Claims 2, 4-9, 11, 13-15, 18-19, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bereiter in view of Duvvoori et al., US Patent No. 6,021,438.

Claims 5 and 18:

Bereiter discloses all the limitations of this claim (see all above citations) except for outputting information, which indicates that the section is allotted an excess number of software licenses compared with the number of software licenses in actual use. Duvvoori, however, discloses that reports will be generated based on the auditing of license usage (C7, L8-11: reports: Fig 1, associated text). While neither reference specifically recites the exact language of the above limitation, it would have been obvious to one ordinarily skilled in the art at the time the invention was made that inherent with a surveying/auditing of license usage within a corporate organization, efforts will be made to maximize the use of all purchased licenses, and management would want to know where such allocated licenses were not being used, in order to maybe to change or redistribute that allocation.

Claims 2, 4, 6, 11, and 13:

Bereiter discloses all the limitations of claims 1, 3, 10 and 12. Bereiter in view of Duvvoori disclose all the limitations of claim 5. Neither reference specifically recites:

- *generating a software dictionary which identifies software during collection of the inventory information;*
- *wherein the means for collecting the inventory information collects the inventory information by using the generated software dictionary which is distributed to each of the plurality of computers in the organization from which the inventory information is collected.*

However, Duvvoori discloses using "replicated databases" (C2, L61 -C3, L10) identifying pertinent information about the software licenses to be surveyed/audited to be duplicated on local machines and which will be used to collect license usage data at each such local machine. It would have been obvious to one ordinarily skilled in the art at the time the invention was made to combine the teachings of Bereiter and Duvvoori, to allow for a "dictionary" or database identifying pertinent information about the software licenses to be surveyed/audited to be duplicated on local machines, in order to make the collection of usage data at each machine of a wide area network faster and more responsive to network-wide collection requests from the central server.

Claims 7, 14, and 19:

Bereiter discloses:

- *an [apparatus/medium] for managing software licenses (see all above citations) comprising: means for managing a number of software licenses owned by an entire organization;*

Duvvoori discloses:

- *means for generating, ... a software dictionary (C2, L61 - C3, L10: "replicated databases") for identification of software and a license policy used for determination of presence of a license;*
- *means for distributing the software dictionary, over a network, to each of a plurality of computers within the organization in order to collect inventory information from each of the computers, the inventory information including information regarding software actually installed in each computer (C2, L61 - C3, L10: "replicated databases"); and*
- *means for reporting ...a usage number of software licenses calculated on the basis of the collected inventory information and the license policy (C7, L8-11: reports: Fig 1, associated text).*

It would have been obvious to one ordinarily skilled in the art at the time the invention was made to combine the teachings of Bereiter and Duvvoori, to allow for a "dictionary" or database identifying pertinent information about the software licenses to be surveyed/audited to be duplicated on local machines, in order to make the collection of usage data at each machine of a wide area network faster and more responsive to network-wide collection requests from the central server.

Neither reference specifically recites:

- *means for receiving from a higher-level server an organization-wide policy which is information regarding a logic for collection of a usage number of software licenses;*

However, Bereiter discloses a network (Fig 1, associated text) consisting of a higher authority server linked to node servers and managed nodes. Duvvoori also discloses a central server that manages organization-wide software license policy (Fig 1, associated text). Both systems are directed to software license management within a large, enterprise-wide organization, with central authority for determining license counts and policy. It would have been obvious to one ordinarily skilled in the art at the time the invention was made that in both systems taught by the references, a "higher-level server" would inherently dictate policy and the logic for collection of software license usage and the generation of reports resulting from such surveying. This organization setup of course is necessary in order to provide uniform license policy and adherence to it by all user nodes within the organization.

Claims 8 and 15:

Both Bereiter and Duvvoori disclose the following limitations:

- *managing a software-license holding number which represents a number of software licenses owned by an entire organization, and managing, for each section of the organization, a software-license right number which represents a total number of software licenses permitted to be used and a software license usage number which represents a total number of software licenses in actual use;*

- *collecting, over a network, inventory information from each of a plurality of computers within the organization, the inventory information including information regarding software actually installed in each computer, and updating the software-license usage number of each section of the organization;*

Neither reference specifically discloses:

- *in a case that the sum of the software-license usage numbers of all sections of the organization exceeds the software-license holding number, generating a purchase transaction for purchasing software licenses equal in number to a difference between the sum and the software-license holding number;*
- *adding a number of purchased software licenses to the software-license holding number; and*
- *distributing a purchase expense to a section whose software-license usage number is greater than the corresponding software-license right number, and updating the software-license right number of the section.*

However, Bereiter does disclose that "remedial" actions would be taken should additional software licenses become necessary, including the issuing of purchase orders for more licenses (C9, L34-36). It would have been obvious to one skilled in the art at the time the invention was made that these further limitations of claim 8 would be inherent in any organization, when software is properly needed by its authorized employees, and when the current license count come up short. Issuing purchase orders for more license units and billing the department to which the additional licenses are assigned would be standard business practice.

Claim 9:

The same prior art and obviousness analysis apply to all the limitations of this claim. It would have been obvious to one ordinarily skilled in the art that once the number of required licenses exceeds the non-use number of licenses for that same product, a business organization would

inherently make a decision to purchase the difference between those two numbers, as a standard business practice.

Claims 23-26:

Bereiter in view of Duvvouri disclose all the limitations of these claims (see all above citations).

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **James A. Reagan** whose telephone number is **571.272.6710**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **James Trammell** can be reached at **571.272.6712**. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

703.305.7687 [Official communications, After Final communications labeled "Box AF"]

703.308.1396 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building
401 Dulany Street
Alexandria, VA 22314.

JAR

27 April 2005

